

FAO Mr Peter Robottom
The Planning Inspectorate
Temple Quay House
Temple Quay
BRISTOL BS1 6PN

By email to: KnutsfordtoBowdon@infrastructure.gsi.gov.uk

23 December 2013

Dear Mr Robottom,

A556 Knutsford to Bowden Improvement - significant scheme changes and Highways Agency consultation

Campaign for Better Transport and the North West Transport Roundtable are writing with a number of concerns about the approach of the Highways Agency to the process of the examination you are conducting into the A556 Knutsford to Bowdon Scheme and the consequences for the prospect of a fair examination of this project.

Last week, the Highways Agency launched a new consultation into amendments to the scheme, including the significant change of reducing the speed limit on the new road to 60 mph (with, as we understand it, a 40mph speed limit on the sections currently planned for 50mph) for up to 5 years after the scheme opens.

This change was first raised in a document published on Monday 9 December, two days before the Issue-Specific hearing on traffic flows and air quality held on Wednesday 11 December, which we attended in Knutsford. This was not a firm new proposal but a technical note published in response to Question 2.13 in the second set of questions issued by you on 7 November, describing options for complying with air quality regulations.¹

We raised a number of concerns about this note during the Issue Specific hearing, including that:

- The note gave only summary information about the impact of a possible new speed limit on air pollution, and that a detailed assessment, comparable to that in the original Environmental Statement would be needed to assess whether the proposal was a useful one. The assessment should include, for example, the effect on individual properties previously assessed to breach EU air pollution limits
- If the proposal were taken up and considered to be a suitable mitigation measure for the effects of the scheme on air quality, the actual effects should be closely monitored, and that further reductions in speed might be needed if the measure was shown not to be working (we suggested it might be necessary to use current 'Smart Motorway' technology to introduce variable speed limits for the scheme from the start)

- The proposal is a very significant and material change to the scheme, which would impact on the calculated benefits of the scheme - particularly the time savings that make up a large part of the monetised benefits. We requested a new WebTAG assessment of the business case for the road in order that proper consideration could be made of the supposed benefits of the revised scheme against the proposed damage to the environment

We also suggested that, if a lower speed limit were to be used to reduce air pollution, it should not simply be a voluntary measure but written into a schedule of the DCO, with the clear condition added that the speed limit would not be increased to 70mph if the effect of doing so was still assessed to risk breaching EU air pollution limits after five years.

We were pleased to see that the new questions issued by you after the Issue Specific hearing took our concerns into account and requested more information on several of these points, including the effect on the business case if the reduced speed limit was used. It should also be noted that all the points we have raised so far were with only a small amount of information and a few days' notice, and that we are very likely to have further questions relating to the details of these changes once we have looked at additional information.

On 19 December, we received a copy of a letter and Notice of Further Information from the Highways Agency.² These said that the Highways Agency has launched a public consultation on making several changes to the scheme, including the 60mph speed limit. A 17 page consultation document and maps were enclosed which, again, only gave summary information about the effect on air pollution. The closing date for this consultation is 20 January, with the Christmas break taking up the start of the consultation period.

We do not believe that, with the intervention of the Christmas holidays, this is a fair consultation period or that an adequate amount of information has been provided about such a large change to the scheme.

Moreover, the consultation closing date clashes with other deadlines and examination events, including prospective new hearings on 7 and 8 January and the final deadline for written representations of 17 January. Whether the full information about the effects of the changes is provided on 7, 8 or 17 January, this new consultation cannot reasonably be considered to be an adequate public examination of the substantially changed scheme. As a result, ourselves and the other interested parties, the wider public and the people in individual properties affected by breaches in air pollution cannot possibly be allowed "*a fair opportunity to have their views heard and properly taken account regarding them [the changes].*" The Planning Act 2008 does not envisage any changes to schemes post-submission, but the quoted text above appears to be the minimum standard of consultation on such amendments required by the guidance letter on post-application changes issued by DCLG in November 2011.³

We had planned to commission a specialist to analyse the most recent technical data from the Highways Agency in order to meet your deadline for written submissions but we cannot see how this will be possible with these latest actions from the Highways Agency. We suggest that they have cut across and potentially invalidated your revised timetable whereby you were considering holding further hearings on issues including traffic flows and air quality on 7 and 8 January. This was suggested in your letter of 16 December, published prior to the HA's announcement about a new consultation. We could in fact both make ourselves available if required on the morning of 8 January but we would not be in possession of all the latest detailed data and would not be in a position to contribute much that was new to the proceedings.

We feel it is unacceptable for the Highways Agency to move the goalposts in this way during the examination process, and that the lack of detailed information makes it impossible to react to the changing scheme in a sensible manner. We need to know that any work we commission is based on the final version of the proposed scheme, that we have all possible technical information to hand and that sufficient time is available to have it analysed.



Quite apart from the difficulties we now find ourselves in as registered interested parties, there are also problems with engaging wider stakeholders. The short timescale and the presence of Christmas and New Year during the first 12 days of the period, make it even less likely that attempts to publicise the consultation will ensure people who are not interested parties have an opportunity to make representations, as also required by the DCLG guidance letter.

In addition, the final deadline for the close of the examination on 3 March appears to preclude any views provided by respondents to the Highways Agency consultation from being 'properly taken into account' as no changes to the revised plans could possibly be made in time to be properly examined during the final weeks remaining for the process in the timetable.

We also understand that the Environmental Impact Assessment regulations state that amended or late-submitted EIAs should prompt a suspension of the examination for at least 21 days after full documentation is published, and that – if adhered to once a full amended ES is provided – this would also push the examination period over its allotted timescale.⁴

As a result we are writing with our concerns and to request that you take whatever measures are within your power to suspend or postpone the rest of the examination process until full details of the new scheme (including the new business case and a fully updated Environmental Statement) are provided, and the amended scheme consulted upon, with sufficient time and publicity for people who are not interested parties to take part and their views taken into account in any further amendments to the scheme.

If this is not possible within the examination timetable and the timetable cannot be extended, then we would urge you to suspend this process permanently and ask the Highways Agency to present the amended scheme as a new application in the future.

Yours sincerely,



Sian Berry
Roads and Sustainable Transport Campaigner,
Campaign for Better Transport



Lillian Burns
Convenor
North West Transport Roundtable (NW TAR)

References:

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2. http://infrastructure.planningportal.gov.uk/wp-content/ipc/uploads/projects/TR010002/2.%20Post-Submission/Representations/ExA%20Questions/29-11-2013%20-%20Responses%20to%20ExA%20Questions%20Round%202/131218_TR01002_Highways%20Agency%20Response%20to%20Question%202.13%20in%20Annex%20A%20of%20the%20Examining%207th%20November%202013%20letter%20containing%20the%20second%20round%20of%20written%20Questions.pdf
3. http://infrastructure.planningportal.gov.uk/wp-content/uploads/2011/11/111130_Ltr-from-Bob-Neill-MP-re-s114.pdf
4. <http://www.legislation.gov.uk/ukSI/2011/1824/regulation/17/made>

